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Human rights situations that require the Council's attention

Written statement* submitted by the Human Rights House Foundation, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Breaking point in Azerbaijan: promotion and glamour abroad, repression and imprisonment at home

Recent years have brought an intensified crackdown on the exercise of fundamental human rights in Azerbaijan that has shocked even seasoned observers. Without any regard for protections under domestic or international law, the authorities in Azerbaijan have targeted journalists, political opposition leaders, grassroots activists, and human rights defenders (HRDs), including lawyers. Central to the government's strategy to suppress criticism is the employment of politically-motivated criminal prosecutions and detentions. To do so, it has amended its legislation since 2009 in order to restrict rights to freedom of expression, association, and peaceful assembly. As a result, civil society in the country has been devastated.

Azerbaijan should put an end to the unprecedented repression against civil society. In order to minimally comply with its international obligations, as well as the UN Human Rights Council resolution 22/6,[1] Azerbaijan must immediately and unconditionally release and rehabilitate the civil and political rights of all prisoners of conscience. We further call upon the authorities to drop all charges and investigations pending against journalists, political opposition leaders, grassroots activists, human rights defenders, lawyers, and their organizations.

We call upon the Human Rights Council to request the United Nations High Commissioner for Human Rights to present to the Human Rights Council, in an interactive dialogue, a comprehensive report on the human rights situation in Azerbaijan and the environment for human rights defenders in the country.

The Azerbaijani authorities should put an end to the unprecedented repression against civil society and also conduct a prompt, thorough and impartial investigation into all cases of detention, torture, and other human rights abuses directed against human rights defenders, journalists and activists, and provide appropriate compensation to the victims of such violations.

The targeting and imprisonment of dissidents has long been a problem in Azerbaijan; however, the current crackdown is notable. Both the scope of the individuals being targeted, including internationally-known and respected HRDs, and the seriousness of the charges and length of prison sentences that are being imposed against them, set the current crackdown apart from past repression. Despite Azerbaijan's commitments under international law, and its repeated promises to the international community to address wrongful imprisonment, it keeps going.

International attention has turned to Baku on a number of occasions. However, events like the 2012 Eurovision contest and the 2015 European Olympic Games all too often become a source of repression at home while the government grandstands its achievements abroad. President Ilham Aliyev has boasted that the world will see a "strong, growing and modern state" during the Games.[2]

The focus on Azerbaijan's "strength," is contrasted by the conduct of the 2013 presidential election. Observers found that the election, in which President Aliyev purportedly gained 85 percent of the vote, failed to meet international standards. Before the election had even begun, political opposition leader Ilgar Mammadov was detained on trumped-up charges. He remains behind bars, although the European Court for Human Rights found his pre-trial detention politically motivated.[3] The Election Observation Mission sent by the OSCE's Office for Democratic Institutions and Human Rights (ODIHR) found that the poll was "undermined by limitations on the freedoms of expression, assembly and association that did not guarantee a level playing field for the candidates" and local monitors documented a series

[1] Resolution on the protection of human rights defenders, United Nations Human Rights Council, 21 March 2013, A/HRC/RES/22/6.

[2] President Ilham Aliyev tweet, 3 September 2014, available at https://twitter.com/presidentaz/status/507131564392583168.

[3] *Ilgar Mammadov v. Azerbaijan*, ECtHR, Application No. 15172/13 (13 Oct. 2014), available at http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-144124.

of violations. After the election, the authorities turned their attention to those who criticized the election – including by arresting and jailing election monitors like Anar Mammadli.

Similarly, statements about "growth" in Azerbaijan must be viewed in light of increasing restrictions on activities of civil society groups, especially those that investigate corruption. While the president points to significant economic growth, observers point to oil and gas revenues rather than genuine business sector growth. Corruption continues to undermine actual economic development. Instead of tackling this problem, authorities have gone after those exposing government corruption. Investigative journalist Khadija Ismayilova, for example, was detained in response to her work uncovering corrupt deals involving those well-connected. The government has also undertaken a campaign that is sure to curtail growth: eliminating independent monitoring bodies and non-governmental organizations (NGOs). Especially problematic are series of administrative laws and amendments passed since 2009 that place draconian restrictions on the registration, operation, and funding of independent groups.

As with claims of growth, President Aliyev's invocation of a "modern" state reflects only the paint and polish of new buildings in Baku, and not democratic progress. During the 2012 Eurovision contest, the authorities seized the opportunity to launch a publicity campaign to display the country's wealth, while human rights defenders and journalists used it to highlight ongoing rights violations. Although they were successful in bringing their message to the world, the government responded harshly with a crackdown that has since that time only intensified. Many have been jailed and their organizations shuttered, effectively turning the lights off on independent civil society. The government has ensured that there will be no locally-directed human rights campaign during the 2015 European Olympic Games in June.

During 2014, the authorities rounded up the county's most well-known civil society leaders and audaciously even targeted those who monitored and documented the cases of political prisoners. Those wrongly detained include: Intigam Aliyev, Leyla and Arif Yunus, Rasul Jafarov, Emin Huseynov, Anar Mammadli, Ilgar Mammadov, Hilal Mammadov, Omar Mammadov, Rauf Mirkadirov, and a number of activists associated with the NIDA youth movement. As of this moment, some of these people are still held on pre-trial detention, others, such as Intigam Aliyev and Rasul Jafarov, were recently sentenced in April 2015 to lengthy periods of imprisonment.[4]

It has been observed that the Azerbaijani authorities use three strategies in imprisoning its critics; its aim being to punish and silence them. First, authorities rely on "patently politically-motivated charges," such as inciting hatred, mass disorder, and treason. Second, authorities have been known to resort to "fabricated charges," including drug and weapon charges, hooliganism, embezzlement, and service forgery. Although here authorities attempt to hide its true motivation, procedural violations and the political context reveal the concealed motivations. Third, the government has more recently confounded and alarmed international observers through the use of special "organization-directed charges" that have targeted primarily the heads of prominent NGOs in Azerbaijan. Such charges include illegal business activity, tax evasion, and abuse of office, and rely upon a deeply flawed legal theory. At their core, these cases involve both an attempt to limit the ability of NGOs to operate and impose criminal charges in response to the good faith perseverance of these groups.

The legal backdrop for this third category of cases, so-called NGO-directed cases, is the sustained refusal of the government to register certain human rights groups (those which are critical of the government) and the increasingly restrictive administrative laws that impose barriers to the registration, operation, and funding of NGOs in Azerbaijan. Although the European Court of Human Rights has repeatedly criticized the failure of Azerbaijani authorities to timely register NGOs often arbitrarily prolonging the process rather than formally rejecting applicants, the practice has continued. The parliament has also adopted a raft of highly restrictive amendments to the country's administrative laws regulating organizations. Although the Venice Commission of the Council of Europe criticized the legal regime in 2011, authorities adopted additional provisions that entered into force in 2013 and 2014 that further restrict the ability of

[4] More information on the sentences of human rights lawyer Intigam Aliyev and human rights defender Rasul Jafarov, respectively available at http://humanrightshouse.org/Articles/20909.html and http://humanrightshouse.org/Articles/20890.html

such groups to operate – critically restricting access to grants for unregistered groups and imposing a variety of onerous reporting requirements.

Whatever the charges employed by the authorities in any particular case, these detentions violate Azerbaijan's obligations under international law because they are politically motivated and intended to silence and punish the peaceful exercise of a fundamental right. International law prohibits arbitrary detention and Azerbaijan is a party to both the European Convention on Human Rights and the International Covenant on Civil and Political Rights. The politically motivated imprisonment of peaceful human rights defenders, journalists and activists in Azerbaijan violates the prohibition on arbitrary detention (including the legally unjustified use of pre-trial detention), procedural fair trial rights, and a number of substantive human rights, such as freedom of expression, association, and assembly.

The present submission to the Human Rights Council is based on a report published jointly by Freedom Now and the Human Rights House Network, available at http://humanrightshouse.org/Articles/20947.html.